

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #8	CCRB Case #: 201806951	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/21/2018 9:56 PM	Location of Incident: § 87(2)(b) en route to § 87(2)(b) 52nd Precinct stationhouse	Precinct: 52	18 Mo. SOL 2/21/2020	EO SOL 2/21/2020	
Date/Time CV Reported Thu, 08/23/2018 9:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/23/2018 9:47 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Omar Carrascotatis	00961	959534	052 PCT
3. POM Marlon Wright	29461	942726	052 PCT
4. POM Salvator Maida	03768	942104	052 PCT
5. POF Jessica Riverasantana	29757	959933	052 PCT
6. POM Brandon Gembecki	01517	949015	052 PCT
7. DT3 Sheldon Smith	3024	933584	052 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Pisano	02715	957041	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Marlon Wright	Force: At § 87(2)(b) in the Bronx, Police Officer Marlon Wright used physical force against § 87(2)(b)	
B.POM Salvator Maida	Force: At § 87(2)(b) in the Bronx, Police Officer Salvator Maida used physical force against § 87(2)(b)	
C.POM Marlon Wright	Force: At § 87(2)(b) in the Bronx, Police Officer Marlon Wright restricted § 87(2)(b)'s breathing.	
D.POF Jessica Riverasantana	Force: At § 87(2)(b) in the Bronx, At § 87(2)(b) in the Bronx, Police Officer Jessica Riverasantana restricted § 87(2)(b)'s breathing.	
E.POM Omar Carrascotatis	Force: At § 87(2)(b) in the Bronx, Police Officer Omar Carrascotatis used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
F.POM Omar Carrascotatis	Discourtesy: At § 87(2)(b) in the Bronx, Police Officer Omar Carrascotatis spoke discourteously to § 87(2)(b).	
G.POM Omar Carrascotatis	Abuse: At § 87(2)(b) in the Bronx, Police Officer Omar Carrascotatis interfered with § 87(2)(b)'s use of a recording device.	
H. An officer	Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b).	
I. An officer	Abuse: At § 87(2)(b) in the Bronx, an officer threatened § 87(2)(b) with the use of force.	
J. An officer	Discourtesy: At 234 East Gun Hill in the Bronx, an officer acted discourteously toward § 87(2)(b).	
K. An officer	Abuse: At § 87(2)(b) in the Bronx, an officer damaged § 87(2)(b)'s property.	
L. An officer	Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b).	
M.POM Brandon Gembecki	Discourtesy: At § 87(2)(b) in the Bronx, Police Officer Brandon Gembecki spoke discourteously to § 87(2)(b).	
N.DT3 Sheldon Smith	Discourtesy: At § 87(2)(b) in the Bronx, Detective Sheldon Smith spoke discourteously to § 87(2)(b).	
O.POF Jessica Riverasantana	Force: At § 87(2)(b) in the Bronx, Police Officer Jessica Riverasantana tightly handcuffed § 87(2)(b).	
P.POM Marlon Wright	Abuse: En route to § 87(2)(b) Police Officer Marlon Wright threatened § 87(2)(b) with the use of force.	
Q.POM Brandon Gembecki	Discourtesy: At the 52nd Precinct stationhouse, Police Officer Brandon Gembecki spoke discourteously to § 87(2)(b).	
R.POM Brandon Gembecki	Discourtesy: At the 52nd Precinct, Police Officer Brandon Gembecki spoke discourteously to an individual.	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on August 23, 2018, via phone.

On August 21, 2018, at approximately 9:56 p.m., § 87(2)(b)'s mother, § 87(2)(b) called 911 to have § 87(2)(b) removed to the hospital. PO Marlon Wright and PO Salvator Maida of the 52nd Precinct and EMS arrived in front of § 87(2)(b) in the Bronx. § 87(2)(b) refused to go to the hospital. As the officers tried to restrain § 87(2)(b) PO Wright and PO Maida took § 87(2)(b) down to the ground (**Allegation A: Force**, § 87(2)(g); **Allegation B: Force**, § 87(2)(g)). While on the ground, PO Wright placed his knee against § 87(2)(b)'s chest and allegedly restricted his breathing (**Allegation C: Force**, § 87(2)(g)).

At some point while § 87(2)(b) was on the ground, additional officers of the 52nd Precinct arrived on the scene. PO Jessica Riverasantana assisted with restraining § 87(2)(b) and allegedly restricted § 87(2)(b)'s breathing (**Allegation D: Force**, § 87(2)(g)). PO Omar Carrascotatis of the 52nd Precinct pushed § 87(2)(b) and directed various profanities towards § 87(2)(b) (**Allegation E: Force**, § 87(2)(g); **Allegation F: Discourtesy**, § 87(2)(g)). § 87(2)(b) began recording the incident and in response, PO Carrascotatis allegedly used his flashlight to interfere with § 87(2)(b)'s ability to record and refused to provide his name to § 87(2)(b) (**Allegation G: Abuse of Authority**, § 87(2)(g)). As the officers carried § 87(2)(b) to the ambulance, an officer allegedly told § 87(2)(b) "Shut the fuck up before I taser your little ass" (**Allegation H: Discourtesy**, § 87(2)(g); **Allegation I: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) continued to record the officers and an unidentified officer subsequently slapped § 87(2)(b)'s phone out of his hand, damaging § 87(2)(b)'s phone (**Allegation J: Discourtesy**, § 87(2)(g); **Allegation K: Abuse of Authority**, § 87(2)(g)). An unidentified officer then told § 87(2)(b) "Shut the fuck up" (**Allegation L: Discourtesy**, § 87(2)(g)).

While on the sidewalk, PO Brandon Gembecki of the 52nd Precinct used profanities while speaking to § 87(2)(b) (**Allegation M: Discourtesy**, § 87(2)(g)). PO Gembecki handcuffed § 87(2)(b) and then passed him off to Det. Sheldon Smith of the 52nd Precinct Detective Squad. Det. Smith used various profanities while speaking to § 87(2)(b) (**Allegation N: Discourtesy**, § 87(2)(g)). As the officers were placing § 87(2)(b) in the police vehicle, PO Riverasantana of the 52nd Precinct allegedly tightened § 87(2)(b)'s handcuffs (**Allegation O: Force**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were transported to the 52nd Precinct stationhouse.

PO Wright rode in the back of the ambulance with § 87(2)(b). Inside the ambulance, § 87(2)(b) spat at PO Wright and in response, PO Wright threatened § 87(2)(b) with his taser (**Allegation P: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was transported to § 87(2)(b) for a psychological evaluation.

At the 52nd Precinct stationhouse, PO Gembecki told § 87(2)(b) and § 87(2)(b) "What you two did was ridiculous. Acted like fucking children" (**Allegation Q: Discourtesy**, § 87(2)(g); **Allegation R: Discourtesy**, § 87(2)(g)). PO Gembecki issued § 87(2)(b) a summons for disorderly conduct.

Officers' BWC footage captured this incident. Although the investigation determined that there was a significant delay with PO Carrascotatis activating his BWC, he had first been equipped with his BWC in August of 2018, which was less than 90 days prior to this incident (Board Review 44).

Findings and Recommendations

Allegation (A) Force: At § 87(2)(b) in the Bronx, Police Officer Marlon Wright used physical force against § 87(2)(b)

Allegation (B) Force: At § 87(2)(b) in the Bronx, Police Officer Salvator Maida used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) called 911 to have EMS remove her § 87(2)(b)-old son, § 87(2)(b) to the hospital. It is also undisputed that § 87(2)(b) refused to go to the hospital.

At the beginning of PO Wright and PO Maida's BWC, the footage captures the conversation between officers, EMTs, and § 87(2)(b) prior to § 87(2)(b) arriving at the location (Board Review 07 and 08). From their BWC footage, § 87(2)(b) tells them how she was tired of § 87(2)(b) how he has a history of mental illness, and that § 87(2)(b) "has to go." Eventually, § 87(2)(b) exits the building and PO Wright, PO Maida, EMT § 87(2)(b) and EMT § 87(2)(b) approach § 87(2)(b) and corral him towards a corner. PO Wright and PO Maida stands a foot or two in front of § 87(2)(b) as they speak with him. § 87(2)(b) repeatedly refuses to go to the hospital and tells them not to touch him. PO Wright, PO Maida, EMT § 87(2)(b) and EMT § 87(2)(b) repeatedly tries to convince § 87(2)(b) to go to the hospital, but § 87(2)(b) refuses. At 12:34 of PO Maida's BWC and at 12:01 of PO Wright's BWC, it is unclear what happens because their BWC either went dark or the video is blurred due to the rapid movements. However, the audio captures § 87(2)(b) telling them to stop touching him and the officers and EMS tell § 87(2)(b) to relax. When PO Maida's BWC is focused again, § 87(2)(b) is on the ground.

In his CCRB statement, § 87(2)(b) stated that at some point as the officers and EMTs were speaking to § 87(2)(b) an officer or an EMT grabbed § 87(2)(b)'s arm and § 87(2)(b) tried to slide away from them (Board Review 01). The officers and the EMTs surrounded § 87(2)(b) and § 87(2)(b) began to fight them off by squirming his upper body. As the officers and EMTs successfully grabbed § 87(2)(b) began walking away from them while dragging the officers and EMTs. After § 87(2)(b) took two steps, the two EMTs let go of § 87(2)(b) and PO Maida and § 87(2)(b) stumbled. PO Maida fell to the side on the ground while PO Wright caught § 87(2)(b) but § 87(2)(b) still landed on the ground on the side of his body. § 87(2)(b) did not see the specific actions each officer took while § 87(2)(b) was on the ground because of the gate divider and PO Wright's position blocked his view of § 87(2)(b).

The CCRB was unable to obtain § 87(2)(b) and § 87(2)(b) sworn statement during the investigation. § 87(2)(b) phone statement regarding § 87(2)(b)'s refusal to go to the hospital is consistent with the BWC footage (Board Review 20). § 87(2)(b) also stated that § 87(2)(b) ran away from the officers as they tried to restrain him. She recalled § 87(2)(b) struggling with the officers as they tried to bring him down to the ground, but she did not see what specifically happened.

EMT § 87(2)(b) and EMT § 87(2)(b)'s CCRB statement were generally consistent with § 87(2)(b)'s account and the BWC footage (Board Review 21 and 22). However, they provided different accounts regarding the physical interactions between everyone. EMT § 87(2)(b) stated that PO Wright grabbed one of § 87(2)(b)'s arms and told him to put them behind his back, but § 87(2)(b) pulled his arm away (Board Review 21). EMT § 87(2)(b) stated that § 87(2)(b) grabbed onto the gate and PO Wright pulled § 87(2)(b) away from the gate. PO Maida and PO Wright subsequently used their body weight to take § 87(2)(b) down to the ground. EMT § 87(2)(b) stated that he and EMT § 87(2)(b) assisted by grabbing § 87(2)(b)'s legs and pulling them from the ground. EMT § 87(2)(b) added that EMT § 87(2)(b) grabbed § 87(2)(b)'s legs because § 87(2)(b) kicked EMT § 87(2)(b) (Board Review 22). EMT § 87(2)(b) stated that they fell to the ground due to the scuffle between § 87(2)(b) and everyone. While on the ground, EMT § 87(2)(b) and EMT § 87(2)(b) held § 87(2)(b)'s feet.

PO Wright and PO Maida's accounts were generally consistent in that § 87(2)(b) attempted to get away as they grabbed § 87(2)(b)'s arms (Board Review 23 and 27). However, in PO Wright's CCRB testimony, PO Wright stated that after he grabbed § 87(2)(b)'s hand, § 87(2)(b) pulled away and turned his body away from PO Wright (Board Review 27). In response, PO Wright struggled with § 87(2)(b) fell to the ground as a result of the struggle and as PO Wright tried to bring § 87(2)(b) to the ground. § 87(2)(b) was not in handcuffs when § 87(2)(b) fell to the ground. PO Wright stated that EMS possibly assisted, but he was not sure what EMS did. In PO Maida's statement, PO Maida stated that after he grabbed § 87(2)(b)'s arm, § 87(2)(b) pushed PO Maida off and ran approximately three feet away from them (Board Review 23). PO Maida grabbed § 87(2)(b)'s arm again while PO Wright held his other arm. § 87(2)(b) tried to walk away from the officers and twisted his body. PO Maida and PO Wright subsequently took § 87(2)(b) down to the ground for better control, but PO Maida did not recall how they brought § 87(2)(b) down. PO Maida did not recall EMS making any physical contact with § 87(2)(b). On the ground, § 87(2)(b) was faced up and his body was on a "45 degree-angle."

The EVENT information indicated that there was a call regarding two brothers arguing at the location and that one of the males has mental condition (Board Review 34).

PO Wright prepared TRI report number § 87(2)(b), documenting a forcible takedown against § 87(2)(b) to overcome resistance or aggression (Board Review 32). PO Maida prepared TRI report number § 87(2)(b), documenting a forcible takedown and arm bar against § 87(2)(b) to overcome resistance or aggression, defense of self and others, and because he fled (Board).

PO Wright prepared an AIDED report which noted that § 87(2)(b) was irate and argumentative with § 87(2)(b). It also noted that § 87(2)(b) suffers from bipolar disorder and schizophrenia (Board Review 33).

Although § 87(2)(b) stated that § 87(2)(b) screamed that officers "smashed" his face against the ground, § 87(2)(b) did not see this, BWC does not depict the incident or § 87(2)(b) making this statement, and § 87(2)(b) did not provide a statement to attest to this. Therefore, this allegation has not been pleaded.

NYPD Patrol Guide Procedure 221-13 defines an emotionally disturbed person (EDP) as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. When an officer reasonably believes that a person is emotionally disturbed, that person may be taken into protective custody and transported to a hospital for treatment (Board Review 45).

NYPD Patrol Guide Procedure 216-01 states that officers are to cooperate with ambulance personnel in every reasonable manner (Board Review 46).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 39).

§ 87(2)(g)
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[REDACTED]
[REDACTED]
[REDACTED]

Allegation (C) Force: At § 87(2)(b) in the Bronx, Police Officer Marlon Wright restricted § 87(2)(b)'s breathing.

In his CCRB statement, § 87(2)(b) stated that he was later informed by § 87(2)(b) that PO Wright placed his knee against § 87(2)(b)'s chest for “quite a minute” and when § 87(2)(b) complained that PO Wright restricted his breathing, the officers told him to “shut up” (Board Review 01). As noted above, § 87(2)(b) did not see what occurred with § 87(2)(b) once he was placed on the ground.

Neither § 87(2)(b) nor § 87(2)(b) provided a sworn statement to the CCRB.

At 12:40 minutes of PO Maida's BWC, § 87(2)(b) asks, “Why the fuck you squeezing my stomach for” (Board Review 07). § 87(2)(b) is on the ground and positioned on the side of his body with the front of his body facing PO Maida and his rear facing PO Wright. PO Wright's appears to be squatted down with his left knee up and away from § 87(2)(b). It is unclear where PO Wright's other knee and hands are due the poor lighting condition in the video. § 87(2)(b) screams, “Fuck the police,” and “NYPD-K.” § 87(2)(b) does not complain that he could not breathe at this point. § 87(2)(b) refuses orders to turn around and comply.

EMT § 87(2)(b) stated that once § 87(2)(b) was on the ground, PO Wright's knee was against § 87(2)(b)'s buttocks and PO Maida was by § 87(2)(b)'s head (Board Review 21). EMT § 87(2)(b) stated that PO Wright did not have his knee against any other part of § 87(2)(b)'s body. EMT § 87(2)(b) did not recall seeing an officer place their knee against § 87(2)(b)'s chest. At some point, § 87(2)(b)

loudly complained he could not breathe, but EMT § 87(2)(b) did not observe any signs that § 87(2)(b) had difficulty breathing. After EMT § 87(2)(b) cut § 87(2)(b)'s bookbag so that it could be out of the way, § 87(2)(b) stopped complaining that he could not breathe. EMT § 87(2)(b) did not see an officer place their knee against § 87(2)(b)'s chest and did not recall an officer placing their knee against § 87(2)(b)'s stomach area (Board Review 22).

In his CCRB statement, PO Wright stated that he attempted to handcuff § 87(2)(b) on the ground by getting his hands (Board Review 27). PO Wright recalled that his knee was against § 87(2)(b) because § 87(2)(b) said something about it. PO Wright's knee was on § 87(2)(b) to stop § 87(2)(b) from turning and tossing around, but he did not know how § 87(2)(b) was positioned at this point and he did not know where his knee made contact with § 87(2)(b)'s body. In response to § 87(2)(b) saying that PO Wright's knee was on him, PO Wright tried to reposition himself and removed his knee off § 87(2)(b). PO Wright denied placing his knee against § 87(2)(b)'s stomach or chest. During the interview, when asked whether § 87(2)(b) said he could not breathe, PO Wright said that § 87(2)(b) possibly said this, but he was not sure because he remembered that § 87(2)(b) said a lot.

In PO Maida's CCRB statement, PO Maida stated that he held § 87(2)(b) by his arm and placed his shin on the upper part of § 87(2)(b)'s leg to prevent him from kicking (Board Review 07). PO Maida stated that PO Wright held § 87(2)(b)'s arm and had his knee on top of § 87(2)(b)'s hip. PO Maida denied seeing PO Wright place his leg against § 87(2)(b)'s stomach or chest area. § 87(2)(b) complained several times that he could not breathe, but PO Maida did not see anything that could have obstructed § 87(2)(b)'s breathing and § 87(2)(b) appeared to be breathing normally.

§ 87(2)(g)
[REDACTED]

Allegation (D) Force: At § 87(2)(b) in the Bronx, At § 87(2)(b) in the Bronx, Police Officer Jessica Riverasantana restricted § 87(2)(b)'s breathing.
At 16:32 of PO Maida's BWC, 1:09 of PO Weiglen's BWC, and 00:06 of PO Riverasantana's BWC, § 87(2)(b) is captured screaming, "She's choking me" (Board Review 07, 09, and 11). In PO Maida and PO Weiglen's BWC, PO Riverasantana and a male officer tell § 87(2)(b) that no one was choking him. None of the officers' BWC captures § 87(2)(b)'s head or what PO Riverasantana is doing at this point.

Neither § 87(2)(b) nor § 87(2)(b) provided a sworn statement to the CCRB.

In her CCRB statement, PO Riverasantana stated that when she arrived on the scene, § 87(2)(b) was on the ground and was resisting (Board Review 24). She initially tried to remove § 87(2)(b)'s

bookbag with another officer because § 87(2)(b) locked his hands which prevented the officers from handcuffing him. PO Riverasantana was closest to § 87(2)(b)'s face. § 87(2)(b) was moving his face and at some point, PO Riverasantana placed her forearm against § 87(2)(b)'s jawline to prevent § 87(2)(b) from spitting; § 87(2)(b) had not spat at any point. While PO § 87(2)(b)'s forearm was against § 87(2)(b)'s jawline, § 87(2)(b) continued to move his head and stated that he could not breathe. PO Riverasantana did not know what could have restricted § 87(2)(b)'s breathing. Eventually, PO Riverasantana removed § 87(2)(b)'s bookbag by slipping the straps under his arms and then PO Riverasantana removed her forearm from § 87(2)(b). PO Riverasantana denied restricting § 87(2)(b)'s breathing.

PO Maida did not see an officer choke § 87(2)(b) and did not see anything that could have obstructed § 87(2)(b)'s breathing (Board Review 23). PO Maida stated that § 87(2)(b) appeared to be breathing normally.

PO Wright denied restricting § 87(2)(b)'s breathing and did not see an officer do so (Board Review 27). PO Wright denied making physical contact with § 87(2)(b)'s head and did not see an officer do so.

EMT § 87(2)(b) did not see an officer make physical contact with § 87(2)(b)'s head or face (Board Review 21). At some point, EMT § 87(2)(b) cut § 87(2)(b)'s bookbag because it was getting in the way and § 87(2)(b) loudly complained that he could not breathe. After he cut § 87(2)(b)'s bookbag, § 87(2)(b) stopped complaining that he could not breathe. EMT § 87(2)(b) did not observe any sign that § 87(2)(b) had difficulty breathing.

EMT § 87(2)(b) stated that when § 87(2)(b) was on the ground, § 87(2)(b) was kicking trying to get up, spitting, and attempted to bite EMS and the officers; § 87(2)(b) did not successfully bite anyone and EMT § 87(2)(b) did not recall if his spit landed on anyone (Board Review 22). EMT § 87(2)(b) did not recall if he or EMT § 87(2)(b) did anything to stop § 87(2)(b) from biting or spitting. The officers turned § 87(2)(b) to the side to prevent § 87(2)(b) from spitting and biting. The officers were by § 87(2)(b)'s upper body, but EMT § 87(2)(b) did not recall what the officers were doing. EMT § 87(2)(b) did not recall hearing § 87(2)(b) that his breathing was restricted or complaining that he could not breathe.

§ 87(2)(g)

Allegation (E) Force: At § 87(2)(b) in the Bronx, Police Officer Omar Carrascotatis used physical force against § 87(2)(b)

Allegation (F) Force: At § 87(2)(b) in the Bronx, Police Officer Omar Carrascotatis spoke discourteously to § 87(2)(b)

It is undisputed that there were at least five civilians, including § 87(2)(b) in the courtyard area as officers were restraining § 87(2)(b) on the ground. It is also undisputed that § 87(2)(b) and other

individuals were yelling and were near the officers in the courtyard area where § 87(2)(b) was being placed in handcuffs.

In his CCRB statement, § 87(2)(b) stated that when additional officers arrived on the scene, PO Carrascotatis ran towards the scene and pushed § 87(2)(b) from behind (Board Review 01). § 87(2)(b) could not see how PO Carrascotatis pushed him. § 87(2)(b) denied blocking or approaching the officers and moved out of officers' way. § 87(2)(b) repeatedly told the officers that § 87(2)(b) was a minor and at some point, PO Carrascotatis pushed § 87(2)(b)'s chest, moving § 87(2)(b) back a couple steps. PO Carrascotatis told § 87(2)(b) "Get the fuck out of here," "Move the fuck back," "Get the fuck lost," and "Get the fuck back." § 87(2)(b) told PO Carrascotatis that he was not going anywhere and that § 87(2)(b) was his little brother.

Neither § 87(2)(b) nor § 87(2)(b) provided a sworn statement to the CCRB.

None of the officers' BWC footage captures this incident. From 00:19 of PO Pabon's BWC, PO Pabon is walking up the stairs towards the scene. PO Pabon's BWC does not capture an officer pushing § 87(2)(b) (Board Review 13). At the beginning of PO Glynn's BWC, PO Glynn and a few officers, including PO Carrascotatis, are standing in the courtyard with their backs facing the wall while they are face to face with the civilians, including § 87(2)(b) (Board Review 10). The civilians are standing in the area between the officers and the path towards the street. § 87(2)(b) yells that an officer pushed him. At 00:17 seconds of PO Weiglen's BWC, as § 87(2)(b) is speaking and standing in front of the officers, PO Carrascotatis extends one arm with his palm out and places it against § 87(2)(b)'s front shoulder; audio was not recorded at this point (Board Review 09).

In their CCRB statement, EMT § 87(2)(b) and § 87(2)(b) recalled § 87(2)(b) standing a couple of feet away from EMS and the officers as they were restraining § 87(2)(b) (Board Review 21 and 22). EMT § 87(2)(b) stated that he did not know if anyone pushed § 87(2)(b) because he was focused on § 87(2)(b) during the incident (Board Review 22). In his CCRB statement, EMT § 87(2)(b) stated that the civilians attempted to interfere with § 87(2)(b)'s care by preventing them from doing their jobs and coming close to them with their cameras (Board Review 21). EMT § 87(2)(b) stated that § 87(2)(b) was screaming at EMS and the officers to tell them to stop and at some point, § 87(2)(b) grabbed EMT § 87(2)(b)'s shoulder and two officers moved § 87(2)(b) to the side by holding their hands in front of them with their palms out as they forced him to the corner. EMT § 87(2)(b) stated that he did not recall if any officers used the word "fuck" and that there was a lot of cursing during the incident, but he did not know who was cursing or the context of the statements. However, EMT § 87(2)(b) denied hearing officers making any of the alleged statements. EMT § 87(2)(b) stated that there were approximately 15-20 officers telling people to move by the staircase and eventually, the officers told the civilians, "Get the fuck out of here," "Move the fuck back," and "Get the fuck out of the way." EMT § 87(2)(b) did not recall which officers used profanity.

PO Wright and PO Maida provided generally consistent accounts regarding § 87(2)(b)'s resistance (Board Review 23 and 27). PO Wright and PO Maida tried to restrain § 87(2)(b) but were unsuccessful because § 87(2)(b) refused to be handcuffed. In PO Maida's interview, PO Maida stated that he saw civilians exit the building and heard voices, but he did not see anyone interfere

(Board Review 23). PO Maida estimated that the civilians were approximately 20 feet away. PO Wright did not recall any civilians interfere as they were handcuffing § 87(2)(b) (Board Review 27). PO Wright first noticed a crowd when they got up from the ground and saw officers telling people to get back. PO Wright denied seeing anyone interfere at this point. PO Maida and PO Wright denied seeing an officer push a civilian and did not hear an officer say “fuck” or use profanities.

In his CCRB statement, PO Carrascotatis stated that when he first arrived on the scene, he saw officers handcuffing § 87(2)(b) (Board Review 26). PO Carrascotatis approached a large crowd by the side of the building and told them to back up and that they could record. PO Carrascotatis had his arms up with his palms facing outward as he instructed the crowd to back up. PO Carrascotatis denied pushing anyone. The civilians stood approximately five feet away from the officers and were watching the incident. PO Carrascotatis believes that he heard § 87(2)(b) (identified via the investigation as § 87(2)(b) say, “That’s bullshit,” and § 87(2)(b) tried to move forward while the officers were still on the ground with § 87(2)(b) PO Carrascotatis continued to instruct the civilians and § 87(2)(b) to back up and § 87(2)(b) eventually did after several commands. PO Carrascotatis denied using any profanities.

It is undisputed that when additional officers arrived, § 87(2)(b) was actively resisting being handcuffed. Additionally, a crowd had formed in the courtyard where PO Maida, PO Wright, and the two EMTs were trying to restrain § 87(2)(b) It is also undisputed that § 87(2)(b) was yelling during the incident and from BWC and cellphone footage, § 87(2)(b) was using profanities towards the officers.

NYPD Patrol Guide Procedure 203-10 stated that officers shall not use discourteous or disrespectful remarks toward civilians (Board Review 40). However, in DAO-DCT case number: 2017-17276, in a violent and stressful street encounter, “language which would ordinarily be inappropriate in dealing with civilians may be excused” (Board Review 43).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 39).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation (G) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Omar Carrascotatis interfered with § 87(2)(b)'s use of a recording device.

It is undisputed that § 87(2)(b) had his phone out with the intention to record as the officers were restraining and removing § 87(2)(b) to the ambulance.

In his CCRB statement, § 87(2)(b) stated that as he held his phone in front of him and pointed it towards PO Carrascotatis' shield and asked, "Who are you? What are you doing here" (Board Review 01). In response, PO Carrascotatis shined his flashlight towards § 87(2)(b)'s cellphone which obstructed § 87(2)(b)'s recording of PO Carrascotatis. However, during the incident, § 87(2)(b) could see PO Carrascotatis' last name. PO Carrascotatis also told § 87(2)(b) "Oh you want to see who I am? You could see who I am. Right here." § 87(2)(b) stated that he was able to see PO Carrascotatis' name during the incident, but he did not recall it during his CCRB interview. § 87(2)(b) later realized that although he believed he was recording at this point, no video of this incident was recorded on his phone.

In his CCRB testimony, PO Carrascotatis stated that he told the civilians that they could record during the incident, but they had to back up (Board Review 26). PO Carrascotatis recalled § 87(2)(b) recording during the incident because the flash on § 87(2)(b)'s phone was on. PO Carrascotatis denied hiding his shield and did not recall if he pointed at his shield number for § 87(2)(b) but PO Carrascotatis believes he did so. PO Carrascotatis denied interfering with § 87(2)(b)'s ability to interfere to record the incident or shine his flashlight to stop M1 from recording.

At 1:41 minutes in one of the cell phone footage recorded by an unidentified civilian, provided to the investigation by § 87(2)(b) shows PO Carrascotatis holding his flashlight in front of him shining towards the direction of § 87(2)(b) (Board Review 05). § 87(2)(b) complains that he could not see his name three times in succession and then PO Carrascotatis points his flashlight away and at 1:46 minutes, PO Carrascotatis says, "Look, there it is," but then § 87(2)(b) turns and walks away. During his CCRB interview, PO Carrascotatis reviewed this portion of the video and he did not have an independent recollection of shining his flashlight at § 87(2)(b) (Board Review 26). However, PO Carrascotatis stated that his flashlight was pointed so that he could see what was in front of him.

Starting at 00:30 of PO Glynn's BWC, § 87(2)(b) is captured arguing with PO Carrascotatis standing off-screen and § 87(2)(b) repeatedly asks, "Who are you?" § 87(2)(b) has his phone out and says that he is going to record. § 87(2)(b) then says, "He's showing me his badge." It is unclear which officer § 87(2)(b) was speaking about. § 87(2)(b) then says, "Stop putting your flashlight cause I can't see your name." The same incident is captured at 00:50 of PO Montera's BWC.

PO Carrascotatis had his flashlight pointed towards § 87(2)(b) for several seconds and then he moved his flashlight away after § 87(2)(b) complained. It is undisputed that the lighting condition was poor in that area and there were civilians forming a crowd in the space where the officers were. Additionally, PO Carrascotatis stated that the civilians could record during the incident.

§ 87(2)(g)

Allegation (H) Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)

Allegation (I) Abuse of Authority: At § 87(2)(b) in the Bronx, an officer threatened § 87(2)(b) with the use of force.

In his CCRB statement, § 87(2)(b) stated as the officers carried § 87(2)(b) down the stairs, he heard an officer tell § 87(2)(b) “Shut the fuck up before I taser your little ass” (Board Review 01).

As noted above, § 87(2)(b) did not provide a statement to the CCRB.

At 17:11 of PO Maida’s BWC, PO Maida is walking closely behind several officers as they carried § 87(2)(b) down the stairs (Board Review 07). There is yelling in the background, but at no point does anyone say, “Shut the fuck up before I taser your little ass.” Additionally, the BWC does not capture an officer threatening to taser § 87(2)(b) or using profanities at any point from when § 87(2)(b) is lifted from the ground to when he is placed on a stretcher.

EMT § 87(2)(b) did not recall hearing an officer say, “Shut the fuck up before I taser your little ass,” and EMT § 87(2)(b) denied hearing this (Board Review 21 and 22).

None of the officers admitted to telling § 87(2)(b) “Shut the fuck up before I taser your little ass,” or hearing an officer say this (Board Review 23-31).

§ 87(2)(g)

Allegation (J) Discourtesy: At 234 East Gun Hill in the Bronx, an officer acted discourteously toward § 87(2)(b)

Allegation (K) Abuse of Authority: At § 87(2)(b) in the Bronx, an officer damaged § 87(2)(b) s property.

Allegation (L) Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)

In his CCRB statement, § 87(2)(b) stated that as he walked down the steps, he fully extended his arm with his cellphone in his hand to record § 87(2)(b) and the officers (Board Review 01). In the crowd of officers, an officer approached § 87(2)(b) from the side and slapped § 87(2)(b) s hand and phone causing § 87(2)(b) s phone to fall to the ground. § 87(2)(b) s phone and phone case sustained noticeable scratches. § 87(2)(b) described this officer as a white male, in blue uniform, 6’3”-6’4” tall, with a muscular build, in his mid-30s-early 40s, and with medium-length black hair. § 87(2)(b) picked up his phone, continued to walk down the steps, and screamed “Did you just see that? Did you see that? I know all of you seen that! He slapped my phone right out of my hand!” An officer, who § 87(2)(b) did not see, said, “Shut the fuck up. Shut up. Get out of here.”

EMT § 87(2)(b) did not see an officer slap § 87(2)(b)'s phone and he did not recall § 87(2)(b) complaining that an officer did so (Board Review 21). EMT § 87(2)(b) did not hear an officer say, "Shut the fuck up." EMT § 87(2)(b) did not recall if § 87(2)(b) had his phone out and did not hear § 87(2)(b) complain that an officer slapped his phone out of his hand (Board Review 22). EMT § 87(2)(b) did not recall if any officers used the word "fuck," but heard a lot of profanities being used during the incident; he did not know who was cursing or the context of the statements. None of the officers interviewed, admitted to slapping § 87(2)(b)'s phone or using profanities and did not see an officer do so (Board Review 23-31).

At 00:46 seconds in PO Pisano's BWC, § 87(2)(b) has a phone in his hand (Board Review 13). At 00:48 seconds, § 87(2)(b) says, "Damn you just slapped my phone." It is unclear who or if anyone made physical contact with § 87(2)(b)'s hand or phone. However, § 87(2)(b) is captured bending down. None of the officers' BWC captured an officer slapping § 87(2)(b)'s phone out of his hand. At 3:27 of PO Glynn's BWC, someone off-screen appears to say, "Shut the fuck up nigga. Not resisting my ass." It is unclear who says this.

The cellphone videos did not capture what happened at this point of the incident (Board Review 04-06).

§ 87(2)(g)
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§ 87(2)(g)

Allegation (M) Discourtesy: At § 87(2)(b) in the Bronx, Police Officer Brandon Gembecki spoke discourteously to § 87(2)(b)

In his CCRB statement, § 87(2)(b) stated that once he went down the stairs, PO Carrascotatis and PO Gembecki told § 87(2)(b) to disperse (Board Review 01). § 87(2)(b) stated that PO Gembecki told him, "Oh what the fuck did I tell you? I give you one more chance! You got one more time! I'm going to lock your ass up! Get the fuck out of here!" § 87(2)(b) was screaming and asking to get officers' information at the time. PO Gembecki told § 87(2)(b) "Shut the fuck up and get out of here." § 87(2)(b) told PO Gembecki that he was not leaving. After approximately a minute later, PO Gembecki told § 87(2)(b) "You know what? Just get the fuck over here." PO Gembecki grabbed § 87(2)(b) "You know what? Now you can go now too since you want to keep running your fucking and mouth and don't leave."

§ 87(2)(b)'s cellphone footage begins as § 87(2)(b) states that his phone is slapped out of his hand (Board Review 05). The 1:32 minute long footage captures from the point § 87(2)(b) walks down the stairs to when he is handcuffed. At 1:27, PO Gembecki tells § 87(2)(b) "You want to play fucking games? I told you three times to leave." The footage does not capture any other discourtesies.

At 1:46 of PO Pabon's BWC, § 87(2)(b) is holding § 87(2)(b) back as he is screaming, saying "This is my land" (Board Review 14). § 87(2)(b) screams at his mother and tells her to calm down

so he could get officers' badge numbers. There are several civilians on the sidewalk watching the incident.

At 3:11 minutes of PO Glynn's BWC, PO Gembecki escorts § 87(2)(b) to the front of an ambulance as he places § 87(2)(b) in handcuffs (Board Review 10). PO Gembecki then tells § 87(2)(b) "You want to play fucking games? I told you three times to leave."

In his CCRB testimony, PO Gembecki did not recall using profanities, but stated that he made the statement captured on BWC because he instructed § 87(2)(b) multiple times to leave and § 87(2)(b) refused to comply which caused a safety concern (Board Review 28). PO Gembecki stated that he used profanities to get § 87(2)(b) to comply.

As noted above, it is undisputed that the officers initially had difficulties restraining § 87(2)(b) and bringing him to the ambulance. Additionally, there were a crowd of civilians screaming and watching the incident. It is also undisputed that § 87(2)(b) was upset, screaming, and following the officers from the courtyard to the sidewalk.

NYPD Patrol Guide Procedure 203-10 stated that officers shall not use discourteous or disrespectful remarks toward civilians (Board Review 40). However, in DAO-DCT case number: 2017-17276, in a violent and stressful street encounter, "language which would ordinarily be inappropriate in dealing with civilians may be excused" (Board Review 43).

§ 87(2)(g)

Allegation (N) Discourtesy: At § 87(2)(b) in the Bronx, Detective Sheldon Smith spoke discourteously to § 87(2)(b)

In his CCRB statement, § 87(2)(b) stated that after PO Gembecki pulled him away, PO Gembecki passed him off to Det. Smith (Board Review 01). § 87(2)(b) asked Det. Smith what was going on and Det. Smith told § 87(2)(b) "Shut the fuck man. Just shut the fuck up. Get the fuck in the car and shut the fuck up." § 87(2)(b) also requested Det. Smith to have someone look after his mother and Det. Smith replied, "Shut the fuck up." § 87(2)(b) continued to ask the officers to listen to him and that his mother needed assistance. In response Det. Smith said, "Oh shut the fuck up. We not paying attention to shit."

EMT § 87(2)(b) denied hearing an officer say, "Shut the fuck up" (Board Review 21). EMT § 87(2)(b) recalled a lot of profanities were used, but he did not recall the context or who said the profanities (Board Review 22).

In his CCRB statement, Det. Smith recalled seeing § 87(2)(b) being handcuffed and recalled that he was belligerent and was yelling (Board Review 29 and 30). Det. Smith attempted to calm § 87(2)(b).

§ 87(2)(b) down by telling him that they were there to help § 87(2)(b) Det. Smith denied telling § 87(2)(b) “Shut the fuck up,” and denied using any profanities.

None of the officers interviewed stated that they heard an officer use profanity toward § 87(2)(b) (Board Review 23-21).

None of the BWC videos captured this incident and Det. Smith was not equipped with a BWC.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (O) Force: At § 87(2)(b) in the Bronx, Police Officer Jessica Riverasantana tightly handcuffed § 87(2)(b)

In his CCRB statement, § 87(2)(b) stated that as Det. Smith opened the police vehicle’s door, § 87(2)(b) felt PO Riverasantana “click” his cuffs two notches tighter (Board Review 01). When § 87(2)(b) complained that PO Riverasantana cut his circulation, PO Riverasantana stated that § 87(2)(b) moved. Det. Smith then told PO Riverasantana to loosen the handcuffs and she did so.

PO Riverasantana did not have an independent recollection of anyone else aside from § 87(2)(b) being handcuffed (Board review 24 and 25). PO Riverasantana denied squeezing the handcuffs tighter on a civilian. PO Riverasantana reviewed her BWC footage and she did not know what § 87(2)(b) was referring to when he said, “She’s squeezing the cuffs on me.”

Det. Smith did not know if a female officer interacted with § 87(2)(b) and stated that § 87(2)(b) never complained that his handcuffs were tightened (Board Review 23 and 30).

At 3:45 of PO Riverasantana’s BWC, § 87(2)(b) says, “She’s squeezing the cuffs on me,” several times (Board Review 11). At 4:54, a female’s voice says, “You got room.” § 87(2)(b) complains that he did not have any room and that she squeezed his handcuffs tighter. PO Riverasantana’s BWC only captured audio.

§ 87(2)(g)
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§ 87(2)(g)

Allegation (P) Abuse of Authority: En route to § 87(2)(b) Police Officer Marlon Wright threatened § 87(2)(b) with the use of force.

Starting at 00:48 seconds of PO Cotter’s BWC footage, officers strap § 87(2)(b)’s lower body to the gurney and § 87(2)(b) appears to still be rear handcuffed (Board Review 15). Starting at 3:11 minutes of PO Wright’s BWC, PO Wright enters the back of the ambulance with § 87(2)(b) and EMT § 87(2)(b) (Board Review 17). While § 87(2)(b) is sitting up with his lower body still strapped and rear cuffed, § 87(2)(b) asks, “Why the fuck you doing this,” and states various profanities. At 3:50, § 87(2)(b) also tells PO Wright to remove his cuffs so that he could fight him and that he

would knock him out. At 4:00, § 87(2)(b) tells PO Wright to uncuff him and then spits at PO Wright. EMT § 87(2)(b) grabs § 87(2)(b) with one arm. At 4:06, § 87(2)(b) says, “Don’t tase me.”

In his CCRB statement, PO Wright stated that when § 87(2)(b) spat on him while inside the ambulance, PO Wright recalled thinking, “I’m not having it. Don’t spit on me” (Board Review 23). In response, PO Wright told § 87(2)(b) not to spit on him and § 87(2)(b) continued to spit. PO Wright subsequently drew his taser and pointed it towards the ground. PO Wright stated that he drew his taser to get § 87(2)(b) to stop spitting at him. PO Wright stated that he had no intention of tasing § 87(2)(b).

It is undisputed that PO Wright drew his taser in response to § 87(2)(b) spitting on him. It is also undisputed that § 87(2)(b) was screaming at the back of the ambulance and threatened to fight PO Wright. However, § 87(2)(b) was in handcuffs and his lower body was strapped to the stretcher.

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 39).

NYPD Patrol Guide Procedure 221-08 states that officers may use conducted electrical weapons (CEW) against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others (Board Review 38). Active resisting includes evasive movements to avoid the officers attempts to gain control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. Active aggression is the threat or overt act of an assault (physical or verbal), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. Procedure 221-08 also states that a CEW should never be used in cartridge or drive stun mode on a rear-cuffed prisoner.

§ 87(2)(g)

[REDACTED]

Allegation (Q) Discourtesy: At the 52nd Precinct stationhouse, Police Officer Brandon Gembecki spoke discourteously to § 87(2)(b)

Allegation (R) Discourtesy: At the 52nd Precinct, Police Officer Brandon Gembecki spoke discourteously to § 87(2)(b)

At 9:50 of PO Camacho’s BWC and 4:48 of PO Pabon’s BWC, as PO Camacho escorts § 87(2)(b) from the police vehicle to the stationhouse, PO Gembecki tells PO Camacho, "I got them both"

(Board Review 16 and 19) PO Gembecki subsequently tells § 87(2)(b) and an unidentified arrested individual, "What you two did was ridiculous. You acted like fucking children."

In his CCRB statement, PO Gembecki stated that he made this statement to § 87(2)(b) to make him understand that what he did was ridiculous (Board Review 28). PO Gembecki used the word "fucking" because § 87(2)(b) was not complying when he spoke to him at a "regular tone" and "regular language."

NYPD Patrol Guide Procedure 203-10 stated that officers shall not use discourteous or disrespectful remarks toward civilians (Board Review 40).

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b)
[REDACTED]
 - [REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 36).
- PO Carrascotatis has been a member of service for three years and has been a subject in two CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
[REDACTED]
- PO Wright has been a member of service for 13 years and has been a subject in three CCRB complaints and seven allegations of which one was substantiated:
 - Case number 201200308 involved a substantiated allegation of physical force against PO Wright. The Board recommended Charges and the NYPD imposed Command Discipline B.
 - § 87(2)(g)
[REDACTED]
- PO Riverasantana has been a member of service for three years and this is the first CCRB complaint to which she has been a subject.
- Det. Smith has been a member of service for 15 years and has been a subject in two CCRB complaints and three allegations, one of which was substantiated.
 - § 87(4-b), § 87(2)(g)
[REDACTED]
- PO Gembecki has been a member of service for nine years and has been a subject in eight CCRB complaints and 18 allegations, one of which was substantiated.

- Case number 201509979 involved an allegation of retaliatory summons against PO Gembecki. The Board recommended Formalized Training and the NYPD imposed the recommendation.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 22, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint.

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date